

**PT 00-11**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**SHERIDAN-CARROLL CHARITABLE  
WORKS FUND, INC.,  
APPLICANT**

**v.**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE**

**Docket No: 98-PT-0115  
(96-16-683)**

**Real Estate Exemption  
For 1996 Tax Year**

**P.I.N. 13-31-124-012**

**Cook County Parcel**

**Robert C. Rymek  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** John Spina of Spina, McGuire & Okal on behalf of Sheridan-Carroll Charitable Works Fund, Inc.

**SYNOPSIS:** This proceeding raises the issue of whether Cook County Parcel Index Number 13-31-124-012 (hereinafter the “subject property”) should be exempt from 1996 real estate taxes under sections 15-65 of the Property Tax Code. 35 ILCS 200/15-65.

This controversy arose as follows:

On February 3, 1997, the Sheridan-Carroll Charitable Works Fund, Inc. (hereinafter “applicant”), filed a Property Tax Exemption Complaint with the Cook County Board of Review. The Board reviewed the applicant’s complaint and on April 18, 1997 recommended that “no action” be taken. On October 8, 1998, the Illinois

Department of Revenue concluded that the property was not in exempt ownership and not in exempt use. The Applicant filed a timely appeal from the Department's denial of exemption. On February 2, 2000, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence it is recommended that the subject parcel be exempted from 1996 real estate taxes.

### **FINDINGS OF FACT**

1. Dept. Gr. Ex. No. 1 and Dept. Ex. No. 2 establish the Department's jurisdiction over this matter and its position that the subject parcel was not in exempt use or exempt ownership during 1997.
2. On November 11, 1966, Sam and Mary Sciascia transferred ownership of the subject property to Sheridan-Carroll Building Corporation via Articles of Agreement for Warranty Deed. App. Gr. Ex. No. 4, Doc. A.
3. In November 1995, Sheridan-Carroll Building Corporation assigned its interest in the Articles of Agreement for Warranty Deed to the applicant. App. Gr. Ex. No. 4, Docs. B, C, E.
4. Mary Sciascia consented to the assignment to the applicant on November 15, 1995. App. Gr. Ex. No. 4, Doc. D.
5. The subject property is improved with a one-story building, which is located at 2015 N. Harlem Avenue in Chicago. Dept. Gr. Ex. No. 1.
6. On January 20, 1983 the applicant was incorporated under the General Not for Profit Corporation Act of Illinois. App. Ex. No. 1.
7. The applicant's articles of incorporation provide that the applicant was organized for charitable purposes. App. Ex. No. 1.

8. The Internal Revenue Service granted the applicant an exemption from federal income taxes on August 22, 1988 pursuant to section 501(c)(3) of the Internal Revenue Code. App. Ex. No. 3.
9. The applicant has no capital, capital stock, or shareholders. Tr. pp. 8-9.
10. The applicant derives over 90% of its revenues from public and private donations. App. Ex. No. 5.
11. The applicant charges no membership dues. Tr. p. 9.
12. During 1996, the applicant used the subject property as a food pantry, which was open six days a week from the morning until approximately 6:00 p.m. Tr. pp. 65-70.
13. The applicant's staff consists entirely of volunteers. The applicant has no salary expenses. Tr. p. 77; App. Ex. No. 5.
14. The applicant receives food donations from various bakeries such as Gonnella bread. The applicant's volunteers sort this food and distribute it to the needy. Tr. pp. 67-70.
15. The applicant's financial statements indicate that it received \$27,089 in donations in 1996. App. Ex. No. 5.
16. The applicant's financial statements indicate that the applicant contributed \$10,443 to the Enger School for the mentally retarded and expended \$1,900 for its food program in 1996. Virtually all of the applicant's other expenses related to building operation costs. App. Ex. No. 5.
17. The applicant operated at a deficit of \$4,665 in 1996. App. Ex. No. 5.

18. The \$1,900 expended toward the food program did not include food that it received as donations. Rather the \$1,900 was used to purchase extra food at seven cents per pound from the Greater Food Depository of Chicago. Tr. p. 71.
19. Although the applicant did not maintain records of the exact value of the food it received and distributed, it was “literally hundreds of tons of food” with a value of approximately \$200,000. Tr. p. 71.
20. In addition to food, the applicant also accepted donated clothes that it would distribute to the needy. Tr. p. 76.
21. The \$10,443, which the applicant contributed to the Enger School for the mentally retarded, was derived from a Tootsie Roll fundraiser the applicant participated in along with the Knights of Columbus. Tr. pp. 88-90.
22. Twice monthly the applicant allows the Knights of Columbus to use a portion of its building for its meetings. The Knights of Columbus are not charged any rent. Tr. p. 31.
23. The applicant provides its services to anyone who needs it without regard to race, creed, or color. If people need help, the applicant will, to the extent its resources allow, provide those people with food or clothing. Tr. pp. 48, 96-97.

### **CONCLUSIONS OF LAW**

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to

warrant an exemption from property taxes for the 1996 tax year. Accordingly, under the reasoning given below, the determination by the Department that the above-captioned parcel does not qualify for exemption should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which exempts all property which is both: (1) owned by "institutions of public charity" and (2) "actually and exclusively used for charitable or beneficent purposes" (35 ILCS 200/15-65). Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Korzen").

Here, it was established that Sheridan-Carroll Building Corporation acquired an ownership interest in the subject property via Articles of Agreement for Warranty Deed. See Christian Action Ministries v. Department of Revenue, 74 Ill. 2d 51, 61 (1978) (holding that a contract for warranty deed provided an ownership interest adequate to qualify for an exemption). Sheridan-Carroll Building Corporation subsequently assigned its ownership interest in the subject property to the applicant in November 1995. App. Ex. No. 6. That transfer became effective on November 15, 1995 when Mary Sciascia consented to, and thereby ratified, the assignment.

Because the applicant owned the subject property, the next question that needs to be addressed is whether the applicant qualifies as an “institution of public charity” under the terms of Korzen. Korzen held that all "institutions of public charity" share the following distinctive characteristics: (1) they have no capital stock or shareholders; (2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters; (3) they dispense charity to all who need and apply for it; (4) they do not provide gain or profit in a private sense to any person connected with it; and, (5) they do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Korzen supra at 157.

Here, the applicant: (1) did not have any capital stock or shareholders; (2) earned no profits or dividends, but rather derived 90% of its funds from public and private charity; (3) dispensed charity to all who need and apply for it; (4) did not provide gain or profit in a private sense to any person connected with it; and, (5) does not appear to place

obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Accordingly, the applicant qualifies as an institution of public charity.

Because the applicant qualifies as an institution of public charity, the only remaining question is whether the applicant used the subject property primarily for “charitable or beneficent purposes” in 1996. 35 ILCS 200/15-65.

In 1996, the subject property was used primarily for the distribution of food and clothing to the needy. Although the applicant also occasionally allowed the Knights of Columbus to use a portion of the property for meetings, such usage was nominal and incidental the main use property as a food pantry. Moreover, the applicant did not charge the Knights of Columbus any rent. Under these circumstances I conclude that the subject property was used primarily for charitable purposes.

For the reasons set forth above, I recommend that Cook County Parcel Index Number 13-31-124-012 be granted an exemption from 1996 real estate taxes.

March 22, 2000  
Date

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Robert C. Rymek  
Administrative Law Judge